

REMARKS

Applicant has amended claims 1, 5, 13, 17, 25, 28, and 29 and has added new claims 31-36 as set forth above. Applicants notes with appreciation the Office's indication that claims 5-12, 17-24, 28, and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants also notes with appreciation the Office's suggestions for placing the remaining claims in condition for allowance. In view of the above amendments and the following remarks, reconsideration of the outstanding office action is respectfully requested.

The Office has rejected claims 1-4, 13-16, 25-27, 30 under 35 U.S.C. 102(b) as being anticipated by US Patent 5,933,224 to Hines et al. (Hines). The Office asserts that Hines discloses a distant measurement apparatus 100 shown in figures 2 and 3 as a housing with at least one surface including at least one switch (button 110) along the one surface of the housing (upper surface as shown in figure 1). The Office asserts the switch has an inactivated position (un-depressed) and an activated position (depressed) when pressed against an origination object. The Office also asserts that the activated position of the switch effectively identifies the surface as a reference plane with respect to the origination object. The Office asserted that equivalent language in the claims that the switch location in a reference plane that is orthogonal to the measurement direction and coincident with a solid surface on the device would be patentable over the cited references.

Hines does not disclose or suggest, "wherein in the activated position the surface along which the switch is located and which is identified as the reference plane rests against the origination object" as recited in claim 1, 13, and 25. Applicant has amended the claims in accordance with the Office's suggestion to be patentable over the cited references. As the Office has acknowledged and as illustrated in FIGS 1 and 2 in Hines, the measure button 110, which is used to initiate a measurement, is located on a top surface of the apparatus and does not rest against the origination object in an activated position and is not identified as the reference plane. Instead, this surface with the measure button 110 in Hines simply extends along in a direction of the measurement when pulses are transmitted out through the transmit lens 104 and are received back through the receive lens 106 for a distance measurement. Accordingly, in view of the foregoing amendments and remarks, the Office is respectfully requested to reconsider and withdraw the rejection of claims 1, 13, and 25. Since claims 2-4 depend from and contain the limitations of claim 1, claims 14-16 depend from and contain the limitations of claim 13, and claims 26, 27, and 30 depend from

and contain the limitations of claim 25, they are distinguishable over the cited references and patentable in the same manner as claims 1, 13, and 25.

The Office has objected to claims 5-12, 17-24, 28, and 29 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant has amended claims 5, 17, 28, and 29 to be in independent form including all of the limitations of the base claim and any intervening claims. Claims 6-12 and 18-24 now depend from allowable independent claims 5 and 17, respectively. In view of the foregoing amendments and remarks, the Office is respectfully requested to reconsider and withdraw the objection to claims 5-12, 17-24, 28, and 29.

Applicant has also added new dependent claims 31 and 32 and new independent claims 33-36 which are believed to be distinguishable over the cited references and in condition for allowance. As acknowledged by the Office with respect to claim 29, none of the cited references are believed to disclose or suggest, *inter alia*, "wherein the switch extends out from the identified surface of the housing in an inactivated position and is substantially flush with the identified surface of the housing in an activated position" as recited in claims 33 and 35. Additionally, as acknowledged by the Office with respect to claim 28, none of the cited references are believed to disclose or suggest, *inter alia*, "wherein the switch comprises an L-shaped structure which is slidably mounted on the one surface of the housing and wherein the switch is movable relative to the housing from the inactivated position to the activated position where an inner surface of the L-shaped structure is in substantially the same plane as the identified another surface of the housing" as recited in claims 34 and 36.

In view of all of the foregoing, applicant submits that this case is in condition for allowance and such allowance is earnestly solicited.

Respectfully submitted,

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